

Appendix C. Reserve Legislation

One Hundred Fifth Congress
of the
United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the seventh day of January, one thousand nine hundred and ninety-seven*

An Act

Making appropriations for the Department of the Interior and related agencies
for the fiscal year ending September 30, 1998, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled, That the
following sums are appropriated, out of any money in the Treasury
not otherwise appropriated, for the fiscal year ending September
30, 1998, and for other purposes, namely:*

TITLE I-DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96-487 (16 U.S.C. 3150(a)), \$583,270,000, to remain available until expended, of which \$2,043,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96-487 (16 U.S.C. 3150); and of which \$3,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601-6a(i)); and of which \$1,500,000 shall be available in fiscal year 1998 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation, to such Foundation for challenge cost share projects supporting fish and wildlife conservation affecting Bureau lands; in addition, \$27,650,000 for Mining Law Administration program operations, to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than \$583,270,000; and in addition, not to exceed \$5,000,000, to remain available until expended, from annual mining claim fees; which shall be credited to this account for the costs of administering the mining claim fee program, and \$2,000,000 from communication site rental fees established by the Bureau for the cost of administering communication site activities: *Provided, That appropriations herein made*

H. R. 2107-68

(f) SUNSET.-If amounts are not assumed by the concurrent budget resolution and appropriated from the Fund by December 15, 1998, the Fund shall terminate and the amounts in the Fund including the accrued interest shall be applied to reduce the Federal deficit.

TITLE V-PRIORITY LAND ACQUISITIONS, LAND EXCHANGES, AND MAINTENANCE

For priority land acquisitions, land exchange agreements, other activities consistent with the Land and Water Conservation Fund Act of 1965, as amended, and critical maintenance to be conducted by the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service and the Forest Service, \$699,000,000, to be derived from the Land and Water Conservation Fund notwithstanding any other provision of law, to remain available until September 30, 2001, of which \$167,000,000 is available to the Secretary of Agriculture and \$532,000,000 is available to the Secretary of the Interior: *Provided*, That of the funds made available to the Secretary of Agriculture, not to exceed \$65,000,000 may be used to acquire interests to protect and preserve Yellowstone National Park, pursuant to the terms and conditions set forth in sections 502 and 504 of this title, and \$12,000,000 may be used for the rehabilitation and maintenance of the Beartooth Highway pursuant to section 502 of this title: *Provided further*, That of the funds made available to the Secretary of the Interior, not to exceed \$250,000,000 may be used to acquire interests to protect and preserve the Headwaters Forest, pursuant to the terms and conditions set forth in sections 501 and 504 of this title, and \$10,000,000 may be used for a direct payment to Humboldt County, California pursuant to section 501 of this title: *Provided further*, That the Secretary of the Interior and the Secretary of Agriculture, after consultation with the heads of the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service and the Forest Service, shall, in fiscal year 1998 and each of the succeeding three fiscal years, jointly submit to Congress a report listing the lands and interests in land that the Secretaries propose to acquire or exchange and the maintenance requirements they propose to address using funds provided under this heading for purposes other than the purposes of sections 501 and 502 of this title: *Provided further*, That none of the funds appropriated under this title for purposes other than the purposes of sections 501 and 502 of this title shall be available until the House Committee on Appropriations and the Senate Committee on Appropriations approve, in writing, a list of projects to be undertaken with such funds: *Provided further*, That moneys provided in this title, when combined with moneys provided by other titles in this Act, shall, for the purposes of section 205(a) of H. Con. Res. 84 (105th Congress), be considered to provide \$700,000,000 in budget authority for fiscal year 1998 for Federal land acquisitions and to finalize priority land exchanges.

SEC. 501. HEADWATERS FOREST AND ELK RIVER PROPERTY ACQUISITION. (a) AUTHORIZATION.-Subject to the terms and conditions of this section, up to \$250,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire lands referenced in the Agreement of September 28, 1996, which consist of approximately 4,500 acres commonly referred to as the

H. R. 2107-69

"Headwaters Forest", approximately 1,125 acres referred to as the "Elk Head Forest", and approximately 9,600 acres referred to as the "Elk River Property", which are located in Humboldt County, California. This section is the sole authorization for the acquisition of such property, which is the subject of the Agreement dated September 28, 1996 between the United States of America (hereinafter "United States"), the State of California, MAXXAM, Inc., and the Pacific Lumber Company. Of the entire Elk River Property, the United States and the State of California are to retain approximately 1,845 acres and transfer the remaining approximately 7,755 acres of Elk River Property to the Pacific Lumber Company. The property to be acquired and retained by the United States and the State of California is that property that is the subject of the Agreement of September 28, 1996 as generally depicted on maps labeled as sheets 1 through 7 of Township 3 and 4 North, Ranges 1 East and 1 West, of the Humboldt Meridian, California, titled "Dependent Resurvey and Tract Survey", as approved by Lance J. Bishop, Chief Cadastral Surveyor-California, on August 29, 1997. Such maps shall be on file in the Office of the Chief Cadastral Surveyor, Bureau of Land Management, Sacramento, California. The Secretary of the Interior is authorized to make such typographical and other corrections to this description as are mutually agreed upon by the parties to the Agreement of September 28, 1996. The land retained by the United States and the State of California (approximately 7,470 acres) shall hereafter be the "Headwaters Forest". Any funds appropriated by the Federal Government to acquire lands or interests in lands that enlarge the Headwaters Forest by more than five acres per each acquisition shall be subject to specific authorization enacted subsequent to this Act, except that such funds may be used pursuant to existing authorities to acquire such lands up to five acres per each acquisition or interests in lands that may be necessary for roadways to provide access to the Headwaters Forest.

(b) EFFECTIVE PERIOD OF AUTHORIZATION.-The authorization in subsection (a) expires March 1, 1999 and shall become effective only-

(1) when the State of California provides a \$130,000,000 contribution for the transaction;

(2) when the State of California approves a Sustained Yield Plan covering Pacific Lumber Company timber property;

(3) when the Pacific Lumber Company dismisses the following legal actions as evidenced by instruments in form and substance satisfactory to each of the parties to such legal actions: Pacific Lumber Co. v. United States, No. 96-257L (Fed. Cls.) and Salmom Creek Corp. v. California Board of Forestry, No. 96-CS-1057 (Cal. Super. Ct.);

(4) when the incidental take permit under section 10(a) of the Endangered Species Act (based upon a multispecies Habitat Conservation Plan covering Pacific Lumber Company timber property, including applicable portions of the Elk River Property) is issued by the United States Fish and Wildlife Service and the National Marine Fisheries Service;

(5) after an appraisal of all lands and interests therein to be acquired by the United States has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on

H. R. 2107-70

Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate;

(6) after the Secretary of the Interior issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate for the land and property to be acquired by the Federal Government. Such opinion of value shall also include the total value of all compensation (including tax benefits) proposed to be provided for the acquisition;

(7) after an Environmental Impact Statement for the proposed Habitat Conservation Plan has been prepared and completed in accordance with the applicable provisions of the National Environmental Policy Act of 1969; and

(8) when adequate provision has been made for public access to the property.

(c) ACQUISITION.-Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in section 501(a) may differ from the value contained in the appraisal required by section 501(b)(5) if the Secretary of the Interior certifies, in writing, to Congress that such action is in the best interest of the United States.

(d) HABITAT CONSERVATION PLAN.-

(1) APPLICABLE STANDARDS.-Within 60 days after the enactment of this section, the Secretary of the Interior and the Secretary of Commerce shall report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives on the scientific and legal standards and criteria for threatened, endangered, and candidate species under the Endangered Species Act and any other species used to develop the habitat conservation plan (hereinafter "HCP") and the section 10(a) incidental take permit for the Pacific Lumber Company land.

(2) REPORT.-If the Pacific Lumber Company submits an application for an incidental take permit under section 10(a) of the Endangered Species Act for the transaction authorized by subsection (a), and the permit is not issued, then the United States Fish and Wildlife Service and the National Marine Fisheries Service shall set forth the substantive rationale or rationales for why the measures proposed by the applicant for such permit did not meet the issuance criteria for the species at issue. Such report shall be submitted to the Congress within 60 days of the decision not to issue such permit or by May 1, 1999, whichever is earlier.

(3) HCP STANDARDS.-If a section 10(a) permit for the Pacific Lumber Company HCP is issued, it shall be deemed to be unique to the circumstances associated with the acquisition authorized by this section and shall not establish a higher or lesser standard for any other multispecies HCPs than would otherwise be established under existing law.

(e) PAYMENT TO HUMBOLDT COUNTY.-Within 30 days of the acquisition of the Headwaters Forest, the Secretary of the Interior shall provide a \$10,000,000 direct payment to Humboldt County, California.

H. R. 2107-71

(f) PAYMENT IN LIEU OF TAXES. The Federal portion of the Headwaters Forest acquired pursuant to this section shall be entitlement land under section 6905 of title 31 of the United States Code.

(g) OUT-YEAR BUDGET LIMITATIONS.-The following funding limitations and parameters shall apply to the Headwaters Forest acquired under subsection (a)-

(1) At least 50 percent of the total funds for management of such lands above the annual level of \$100,000 shall (with the exception of law enforcement activities and emergency activities) be from non-Federal sources.

(2) Subject to appropriations, the authorized annual Federal funding for management of such land is \$300,000 (with the exception of law enforcement activities and emergency activities).

(3) The Secretary of the Interior or the Headwaters Forest Management Trust referenced in subsection (h) is authorized to accept and use donations of funds and personal property from the State of California, private individuals, and other nongovernmental entities for the purpose of management of the Headwaters Forest.

(h) HEAD WATERS FOREST MANAGEMENT TRUST.-The Secretary of the Interior is authorized, with the written concurrence of the Governor of the State of California, to establish a Headwaters Forest Management Trust ("Trust") for the management of the Headwaters Forest as follows:

(1) MANAGEMENT AUTHORITY.-The Secretary of the Interior is authorized to vest management authority and responsibility in the Trust composed of a board of five trustees each appointed for terms of three years. Two trustees shall be appointed by the Governor of the State of California. Three trustees shall be appointed by the President of the United States. The first group of trustees shall be appointed within 60 days of exercising the authority under this subsection and the terms of the trustees shall begin on such day. The Secretary of the Interior, the Secretary of Resources of the State of California, and the Chairman of the Humboldt County Board of Supervisors shall be nonvoting, ex officio members of the board of trustees. The Secretary is authorized to make grants to the Trust for the management of the Headwaters Forest from amounts authorized and appropriated.

(2) OPERATIONS.-The Trust shall have the power to develop and implement the management plan for the Headwaters Forest.

(i) MANAGEMENT PLAN.-

(1) IN GENERAL.-A concise management plan for the Headwaters Forest shall be developed and periodically amended as necessary by the Secretary of the Interior in consultation with the State of California (and in the case that the authority provided in subsection (h) is exercised, the trustees shall develop and periodically amend the management plan), and shall meet the following requirements:

(A) Management goals for the plan shall be to conserve and study the land, fish, wildlife, and forests occurring on such land while providing public recreation opportunities and other management needs.

H. R. 2107-72

(B) Before a management structure and management plan are adopted for such land, the Secretary of the Interior or the board of trustees, as the case may be, shall submit a proposal for the structure and plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The proposed management plan shall not become effective until the passage of 90 days after its submission to the Committees.

(C) The Secretary of the Interior or the board of trustees, as the case may be, shall report annually to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the House and Senate Committees on Appropriations concerning the management of lands acquired under the authority of this section and activities undertaken on such lands.

(2) PLAN.-The management plan shall guide general management of the Headwaters Forest. Such plan shall address the following management issues-

(A) scientific research on forests, fish, wildlife, and other such activities that will be fostered and permitted on the Headwaters Forest;

(B) providing recreation opportunities on the Headwaters Forest;

(C) access to the Headwaters Forest;

(D) construction of minimal necessary facilities within the Headwaters Forest so as to maintain the ecological integrity of the Headwaters Forest;

(E) other management needs; and

(F) an annual budget for the management of the Headwaters Forest, which shall include a projected revenue schedule (such as fees for research and recreation) and projected expenses.

(3) COMPLIANCE.-The National Environmental Policy Act shall apply to the development and implementation of the management plan.

(i) COOPERATIVE MANAGEMENT.-

(1) The Secretary of the Interior may enter into agreements with the State of California for the cooperative management of any of the following: Headwaters Forest, Redwood National Park, and proximate State lands. The purpose of such agreements is to acquire from and provide to the State of California goods and services to be used by the Secretary and the State of California in cooperative management of lands if the Secretary determines that appropriations for that purpose are available and an agreement is in the best interests of the United States; and

(2) an assignment arranged by the Secretary under section 3372 of title 5, United States Code, of a Federal or State employee for work in any Federal or State of California lands, or an extension of such assignment, may be for any period of time determined by the Secretary or the State of California, as appropriate, to be mutually beneficial.

SEC. 502. PROTECTION AND PRESERVATION OF YELLOWSTONE NATIONAL PARK-ACQUISITION OF CROWN BUTTE MINING INTERESTS.

(a) AUTHORIZATION.-Subject to the terms and conditions of this

H. R. 2107-73

section, up to \$65,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire identified lands and interests in lands referred to in the Agreement of August 12, 1996 to protect and preserve Yellowstone National Park.

(b) CONDITIONS OF ACQUISITION AUTHORITY.-The Secretary of Agriculture may not acquire the District Property until:

(1) the parties to the Agreement have entered into and lodged with the United States District Court for the District of Montana a consent decree as required under the Agreement that requires, among other things, Crown Butte to perform response or restoration actions (or both) or pay for such actions in accordance with the Agreement;

(2) an appraisal of the District Property has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the House and Senate Committees on Appropriations;

(3) after the Secretary of Agriculture issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the House and Senate Committees on Appropriations for the land and property to be acquired by the Federal Government; and

(4) the applicable requirements of the National Environmental Policy Act have been met.

(c) ACQUISITION.-Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in the Agreement of August 12, 1996 to protect and preserve Yellowstone National Park may exceed the value contained in the appraisal required by section 502(b)(2) if the Secretary of Agriculture certifies, in writing, to Congress that such action is in the best interest of the United States.

(d) DEPOSIT IN ACCOUNT.-Immediately upon receipt of payments from the United States, Crown Butte shall deposit \$22,500,000 in an interest bearing account in a private, federally chartered financial institution that, in accordance with the Agreement, shall be-

(1) acceptable to the Secretary of Agriculture; and

(2) available to carry out response and restoration actions.

The balance of amounts remaining in such account after completion of response and restoration actions shall be available to the Secretary of Agriculture for use in the New World Mining District for any environmentally beneficial purpose otherwise authorized by law.

(e) MAINTENANCE AND REHABILITATION OF BEARTOOTH HIGHWAY.-

(1) MAINTENANCE.-The Secretary of Agriculture shall, consistent with the funds provided herein, be responsible for-

(A) snow removal on the Beartooth Highway from milepost 0 in Yellowstone National Park, into and through Wyoming, to milepost 43.1 on the border between Wyoming and Montana; and

H. R. 2107-74

(B) pavement preservation, in conformance with a pavement preservation plan, on the Beartooth Highway from milepost 8.4 to milepost 24.5.

(2) REHABILITATION.-The Secretary of Agriculture shall be responsible for conducting rehabilitation and minor widening of the portion of the Beartooth Highway in Wyoming that runs from milepost 24.5 to milepost 43.1.

(3) AUTHORIZATION OF APPROPRIATIONS.-There is authorized to be appropriated to the Secretary of Agriculture-

(A) for snow removal and pavement, preservation under paragraph (1), \$2,000,000; and

(B) for rehabilitation under paragraph (2), \$10,000,000.

(4) AVAILABILITY OF FUNDS.-Within 30 days of the acquisition of lands and interests in lands pursuant to this section, the funds authorized in subsection (e)(3) and appropriated herein for that purpose shall be made available to the Secretary of Agriculture.

(f) RESPONSE AND RESTORATION PLAN.-The Administrator of the Environmental Protection Agency and the Secretary of Agriculture shall approve or prepare a plan for response and restoration activities to be undertaken pursuant to the Agreement and a quarterly accounting of expenditures made pursuant to such plan. The plan and accountings shall be transmitted to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

(g) MAP.-The Secretary of Agriculture shall provide to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, a map depicting the acreage to be acquired pursuant to this section.

(h) DEFINITIONS.-In this section:

(1) AGREEMENT.-The term "Agreement" means the agreement in principle, concerning the District Property, entered into on August 12, 1996 by Crown Butte Mines, Inc., Crown Butte Resources Ltd., Greater Yellowstone Coalition, Northwest Wyoming Resource Council, Sierra Club, Gallatin Wildlife Association, Wyoming Wildlife Federation, Montana Wildlife Federation, Wyoming Outdoor Council, Beartooth Alliance, and the United States of America, with such other changes mutually agreed to by the parties.

(2) BEARTOOTH HIGHWAY.-The term "Beartooth Highway" means the portion of United States Route 212 that runs from the northeast entrance of Yellowstone National Park near Silver Gate, Montana, into and through Wyoming to Red Lodge, Montana.

(3) CROWN BUTTE.-The term "Crown Butte" means Crown Butte Mines, Inc. and Crown Butte Resources Ltd., acting jointly.

(4) DISTRICT PROPERTY.-The term "District Property" means the portion of the real property interests specifically described as District Property in appendix B of the Agreement.

(5) NEW WORLD MINING DISTRICT.-The term "New World Mining District" means the New World Mining District as specifically described in appendix A of the Agreement.

SEC. 503. CONVEYANCE TO STATE OF MONTANA. (a) CONVEYANCE REQUIREMENT.-Not later than January 1, 2001, but not prior to

H. R. 2107-75

180 days after the enactment of this Act, the Secretary of the Interior shall convey to the State of Montana, without consideration, all right, title, and interest of the United States in and to-

(1) \$10,000,000 in Federal mineral rights in the State of Montana agreed to by the Secretary of the Interior and the Governor of Montana through negotiations in accordance with subsection (b); or

(2) all Federal mineral rights in the tracts in Montana depicted as Otter Creek number 1, 2, and 3 on the map entitled "Ashland Map".

(b) NEGOTIATIONS.-The Secretary of the Interior shall promptly enter into negotiations with the Governor of Montana for purposes of subsection (a)(1) to determine and agree to mineral rights owned by the United States having a fair market value of \$10,000,000.

(c) FEDERAL LAW NOT APPLICABLE TO CONVEYANCE.-Any conveyance under subsection (a) shall not be subject to the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(d) AVAILABILITY OF MAP.-The Secretary of the Interior shall keep the map referred to in subsection (a)(2) on file and available for public inspection in appropriate offices of the Department of the Interior located in the District of Columbia and Billings, Montana, until January 1, 2001.

(e) CONVEYANCE DEPENDENT UPON ACQUISITION.-No conveyance pursuant to subsection (a) shall take place unless the acquisition authorized in section 502(a) is executed.

SEC. 504. The acquisitions authorized by sections 501 and 502 of this title may not occur prior to the earlier of: (1) 180 days after enactment of this Act; or (2) enactment of separate authorizing legislation that modifies section 501, 502, or 503 of this title. Within 120 days of enactment, the Secretary of the Interior and the Secretary of Agriculture, respectively, shall submit to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, reports detailing the status of efforts to meet the conditions set forth in this title imposed on the acquisition of the interests to protect and preserve the Headwaters Forest and the acquisition of interests to protect and preserve Yellowstone National Park. For every day beyond 120 days after the enactment of this Act that the appraisals required in subsections 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources of the House, the Committee on Energy and Natural Resources of the Senate and the House and Senate Committees on Appropriations in accordance with such subsections, the 180-day period referenced in this section shall be extended by one day.

SEC. 505. The Land and Water Conservation Fund Act of 1965 (Public Law 88-578; 78 Stat. 897) (16 U.S.C. 4601-4 through 11) is amended by moving section 13 (as added by section 1021(b) of the Omnibus Parks and Public Lands Management Act of 1996; 110 Stat. 4210) so as to appear in title I of that Act following section 12.

TITLE VI-FOREST RESOURCES CONSERVATION AND
SHORTAGE RELIEF

SEC. 601. SHORT TITLE.-This title may be cited as the "Forest Resources Conservation and Shortage Relief Act of 1997".